
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARY K. BEAGLEY,

Defendant.

ORDER

Case No. 2:03CR178 DAK

Defendant Cary K. Beagley has filed a petition to terminate what remains of his term of supervised release. After serving his 30-month sentence, Mr. Beagley has now served approximately 26 months of his 36-month term of supervised release. The government opposes this motion, claiming that Mr. Beagley is serving a mandatory minimum term of supervised release, which cannot be reduced by the court.¹

The court disagrees with the government for the reasons set forth by the Honorable Ted Stewart in *United States v. McClister*, 2008 WL 153771 (D. Utah Jan. 14, 2008) (unpublished). In *McClister*, Judge Stewart followed the reasoning of the Sixth Circuit and the Northern District of Illinois in finding that a court retains the authority under 18 U.S.C. § 3583(e) to terminate a defendant's term of supervised release. *Id.* at *2 (citing *United States v. Scott*, 362 F. Supp. 2d

¹ The government claims that Mr. Beagley was sentenced to serve four years of supervised release, but he was not; he was sentenced to a 36-month term of supervised release. *See* docket # 550.

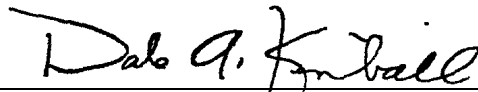
982 (N.D. Ill 2005) and *United States v. Spinelle* (41 F.3d 1056 (6th Cir 1994)).

After considering the factors set forth in 18 U.S.C. § 3583(e), the court finds that terminating supervised release is warranted by Defendant's conduct and is in the interest of justice. In addition, the United States Probation Office does not oppose the early termination of supervised release.

Therefore, for good cause appearing, the court hereby orders that Mr. Beagley's term of supervised release is TERMINATED.

DATED this 4th day of June, 2008.

BY THE COURT:

A handwritten signature in black ink, reading "Dale A. Kimball", is written over a horizontal line.

DALE A. KIMBALL
United States District Judge